



Reprinted
January 23, 2004

SENATE BILL No. 135

DIGEST OF SB 135 (Updated January 22, 2004 2:13 pm - DI 71)

Citations Affected: IC 4-6; IC 20-10.1.

Synopsis: Pledge of Allegiance and moment of silence. Requires a United States flag to be displayed in each classroom of a school corporation. Requires a school corporation to provide a daily opportunity for students to voluntarily recite the Pledge of Allegiance. Provides an exemption for students who choose (or whose parents choose for them) not to participate in the Pledge. Requires a school corporation to establish a daily moment of silence in each classroom. Repeals a law allowing an optional brief period of silent prayer or meditation. Requires the attorney general to defend the school corporation in a civil suit based on an act authorized under this statute.

Effective: July 1, 2004.

**Young R Michael, Waterman,
Hershman, Drozda, Nugent**

January 6, 2004, read first time and referred to Committee on Criminal, Civil and Public Policy.

January 15, 2004, amended, reported favorably — Do Pass.

January 20, 2004, read second time, amended, ordered engrossed.

January 20, 2004, returned to second reading.

January 21, 2004, engrossed.

January 22, 2004, read second time, amended, ordered engrossed.

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SB 135—LS 6381/DI 71+



Reprinted
January 23, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 135

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-2-1.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. (a) Whenever any
3 state governmental official or employee, whether elected or appointed,
4 is made a party to a suit, and the attorney general determines that said
5 suit has arisen out of an act which such official or employee in good
6 faith believed to be within the scope of his duties as prescribed by
7 statute or duly adopted regulation, the attorney general shall defend
8 such person throughout such action.

9 (b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party
10 to a civil suit, and the attorney general determines that the suit has
11 arisen out of an act that the teacher in good faith believed was within
12 the scope of the teacher's duties in enforcing discipline policies
13 developed under IC 20-8.1-5-2(e), the attorney general shall defend the
14 teacher throughout the action.

15 (c) **Whenever a school corporation (as defined in IC 20-5-1-3) is**
16 **made party to a civil suit and the attorney general determines that**
17 **the suit has arisen out of an act authorized under IC 20-10.1-4-0.5**

SB 135—LS 6381/DI 71+



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or IC 20-10.1-4-3.5, the attorney general shall defend the school corporation throughout the action.

(d) A determination by the attorney general under subsection (a), or (b), or (c) shall not be admitted as evidence in the trial of any such civil action for damages.

(~~d~~) (e) Nothing in this chapter shall be construed to deprive any such person of his the person's right to select counsel of his the person's own choice at his the person's own expense.

SECTION 2. IC 20-10.1-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 0.5. (a) The United States flag shall be displayed in each classroom of every school in a school corporation.

(b) The governing body of each school corporation shall provide a daily opportunity for students of the school corporation to voluntarily recite the Pledge of Allegiance on school grounds. A student is exempt from participation in the Pledge of Allegiance and may not be required to participate in the Pledge of Allegiance if:

- (1) the student chooses to not participate; or
- (2) the student's parent chooses to have the student not participate.

SECTION 3. IC 20-10.1-4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.5. (a) In order that:

- (1) the right of each student to the free exercise of religion is guaranteed within the schools; and
- (2) the freedom of each student is subject to the least possible pressure from the state either to engage in or to refrain from religious observation on school grounds;

the governing body of each school corporation shall establish the daily observance of a moment of silence in each classroom of the school corporation.

(b) During the moment of silence required by subsection (a), the teacher responsible for a classroom shall ensure that all students remain seated or standing and silent and make no distracting display so that each student may, in the exercise of the student's individual choice, meditate, pray, or engage in any other silent activity that does not interfere with, distract, or impede another student in the exercise of the student's individual choice.

SECTION 4. IC 20-10.1-7-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. ~~Voluntary Religious~~

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1 ~~Observance = Authorized.~~ A voluntary religious observance is
2 permitted in each school corporation if the school corporation follows
3 sections 9 **and** 10 ~~and 11~~ of this chapter and any additional procedures
4 which it adopts to assure that the observance is voluntary.

5 SECTION 5. IC 20-10.1-7-11 IS REPEALED [EFFECTIVE JULY
6 1, 2004].

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SENATE MOTION

Madam President: I move that Senators Waterman and Hershman
be added as coauthors of Senate Bill 135.

YOUNG R MICHAEL

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COMMITTEE REPORT

Madam President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred Senate Bill No. 135, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. (a) Whenever any state governmental official or employee, whether elected or appointed, is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of his duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-8.1-5-2(e), the attorney general shall defend the teacher throughout the action.

(c) Whenever a school corporation (as defined in IC 20-5-1-3) is made party to a civil suit and the attorney general determines that the suit has arisen out of an act authorized under IC 20-10.1-4-0.5 or IC 20-10.1-4-3.5, the attorney general shall defend the school corporation throughout the action.

(d) A determination by the attorney general under subsection (a), ~~or~~ (b), **or** (c) shall not be admitted as evidence in the trial of any such civil action for damages.

~~(d)~~ **(e)** Nothing in this chapter shall be construed to deprive any such person of ~~his~~ **the person's** right to select counsel of ~~his~~ **the person's** own choice at ~~his~~ **the person's** own expense."

Page 2, line 6, delete "one (1) minute period" and insert "**moment**".

Page 2, line 8, delete "period" and insert "**moment**".

and when so amended that said bill do pass.

(Reference is to SB 135 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 7, Nays 1.

SB 135—LS 6381/DI 71+



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SENATE MOTION

Madam President: I move that Senate Bill 135 be amended to read as follows:

Page 2, line 35, after "seated" insert "**or standing**".

(Reference is to SB 135 as printed January 16, 2004.)

YOUNG R MICHAEL

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SENATE MOTION

Madam President: I move that Senate Bill 135, which was ordered engrossed today, be returned to second reading for purposes of amendment.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senator Drozda be added as coauthor of Senate Bill 135.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senator Nugent be added as coauthor of Senate Bill 135.

YOUNG R MICHAEL

SENATE MOTION

Madam President: I move that Senate Bill 135 be amended to read as follows:

Page 2, line 15, delete "in each classroom" and insert "for students".

Page 2, line 15, delete "for".

Page 2, line 16, delete "students".

Page 2, line 16, after "Allegiance" insert "on school grounds".

(Reference is to SB 135 as reprinted January 21, 2004.)

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